

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

EDWARD A. LONGTINE,

Plaintiff,

v.

Case No. 19-CV-651

WAUTOMA SCHOOL DISTRICT,

Defendant.

REPORT AND RECOMMENDATION SCREENING THE COMPLAINT

On May 2, 2019, Edward A. Longtine filed a complaint against the Wautoma School District alleging he was not hired due to his disability, in violation of the Americans with Disabilities Act, 42 U.S.C. § 12112, *et seq.* Longtine filed a motion for leave to proceed without prepayment of the filing fee (*in forma pauperis*) (Docket # 2) and a motion to appoint counsel (Docket # 8), both of which I denied in an order dated October 4, 2019 (Docket # 9). Longtine was given until November 4, 2019 to pay the filing fee or face dismissal of his case. (Docket # 9.) Rather than paying the filing fee, Longtine filed a motion to withdraw his consent to magistrate judge jurisdiction and to reconsider the denial of his motion for leave to proceed without prepayment of the filing fee. (Docket # 10 and Docket # 11.) On November 1, 2019, I denied Longtine's motion and gave him until December 2, 2019 to pay the filing fee. (Docket # 13.) Longtine was warned that failure to pay the filing fee by December 2, 2019 would result in a recommendation that this action be dismissed.

Longtine has again failed to timely pay the filing fee, instead filing a motion asking me to recuse myself from his case. (Docket # 13.) Longtine acknowledges that he has certain

assets, such as a home with available equity and a vehicle, but states that having to sell an asset would create more financial hardships. (*Id.* at 1–2.) As I previously stated, the assets Longtine listed on his motion for leave to proceed without prepayment of the filing fee—including a home worth approximately \$107,00.00 with an equity balance of \$55,000.00 and two vehicles valued at \$14,500.00—are assets most *pro se* litigants moving for *in forma pauperis* status before this Court do not have. Again, “[The] privilege to proceed without posting security for costs and fees is reserved to the many truly impoverished litigants who, within the District Court’s sound discretion, would remain without legal remedy if such privilege were not afforded to them.” *Brewster v. N. Am. Van Lines, Inc.*, 461 F.2d 649, 651 (7th Cir. 1972). Once again, given Longtine’s assets, I am not convinced that he meets the criteria for *in forma pauperis* status. Because Longtine continues to fail to pay the filing fee, I recommend that this action be dismissed without prejudice.¹ Further, because Longtine fails to demonstrate proper grounds for recusal, his motion is denied.

NOW, THEREFORE, IT IS ORDERED that plaintiff’s motion for recusal (Docket # 13) is **DENIED**.

IT IS FURTHER RECOMMENDED that this action be **DISMISSED**.

Your attention is directed to General L.R. 72(c), 28 U.S.C. § 636(b)(1)(B) and Federal Rules of Criminal Procedure 59(b), or Federal Rules of Civil Procedure 72(b) if applicable, whereby written objections to any recommendation or order herein, or part thereof, may be filed within fourteen days of the date of service of this recommendation or order. Objections are to be filed in accordance with the Eastern District of Wisconsin’s electronic case filing

¹ Because the defendant has not yet appeared and had an opportunity to consent or refuse magistrate judge jurisdiction, I issue a report and recommendation regarding the screening of the plaintiff’s complaint. *See Coleman v. Labor and Industry Review Commission*, 860 F.3d 461(7th Cir. 2017).

procedures. Courtesy paper copies of any objections shall be sent directly to the chambers of the district judge assigned to the case. Failure to file a timely objection with the district court shall result in a waiver of a party's right to appeal. If no response or reply will be filed, please notify the Court in writing.

Dated at Milwaukee, Wisconsin this 4th day of December, 2019.

BY THE COURT

s/Nancy Joseph

NANCY JOSEPH

United States Magistrate Judge